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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/750,927	01/02/2004	Michael R. Hawkins	HAMK.204002	1920
46245	7590	09/20/2005	EXAMINER	
JOSEPH B. BOWMAN 5441 EAST GLENEAGLES DRIVE TUCSON, AZ 85718-1805			SORKIN, DAVID L	
			ART UNIT	PAPER NUMBER
			1723	
DATE MAILED: 09/20/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/750,927

Applicant(s)

HAWKINS, MICHAEL R.

Examiner

David L. Sorkin

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 September 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 35-52 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 42,43,51 and 52 is/are allowed.
- 6) ☒ Claim(s) 35-39 and 44-48 is/are rejected.
- 7) ☒ Claim(s) 40,41,49 and 50 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 38 and 47 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The term "said material" is ambiguous. Is this said primary aggregate material, said secondary material, or said material which is prevented from forming a curtain of falling material?

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claim 35-39 and 44-48 are rejected under 35 U.S.C. 102(b) as being anticipated by Green et al. (US 5,664,882). Regarding claim 35, Green ('882) discloses a method for continuously drying and heating aggregate for an asphalt plant comprising orienting substantially horizontally a rotatable cylinder (3) having first (31) and second (33) ends with an internal passageway (35) communicating therebetween and having first and second zones; rotating the cylinder (see col. 5, lines 37-43); delivering primary aggregate material to the first end of said cylinder (see col. 5, lines 64-67); generating a hot gas stream in said second zone of said cylinder to flow toward said first end of said

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cylinder in a countercurrent direction to the flow of aggregate material within said cylinder in order to heat and dry the aggregate material within the first zone (see col. 7, lines 7-15; Fig. 1); introducing secondary material directly within the second zone of said cylinder whereby rotation of said cylinder transports said secondary material through said second zone to said second end of the cylinder (see col. 9 line 53 to col. 11 line 49); and discharging said primary and secondary materials from said second end of said cylinder (see col. 12, line 62-64). Regarding claim 36, a curtain of falling aggregate material is created in the first zone of said cylinder and said hot gas stream flows through the curtain of falling aggregate (see col. 12, lines 5-11). Regarding claim 37, a step of preventing material from forming a curtain of falling material within the second zone is disclosed (see col. 7, lines 47-55). Regarding claim 38, material (255) is shielded from direct radiant heat in the second zone (see Fig. 1). Regarding claim 39, said delivering step comprises delivering virgin aggregate material to the first end of said cylinder (see col. 5, lines 64-67) and said introducing step comprises intruding recycled asphalt material (255) to said second zone. Regarding claim 44, Green ('882) discloses a method for continuously producing an asphaltic composition from asphalt and aggregates comprising orienting substantially horizontally a rotatable cylinder (3) having first (31) and second (33) ends with an internal passageway (35) communicating therebetween and having first, second and third zones; rotating the cylinder (see col. 5, lines 37-43); delivering primary aggregate material to the first end of said cylinder (see col. 5, lines 64-67); generating a hot gas stream in said second zone of said cylinder to flow toward said first end of said cylinder in a countercurrent direction to the flow of

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aggregate material within said cylinder in order to heat and dry the aggregate material within the first zone (see col. 7, lines 7-15; Fig. 1); introducing secondary material directly within the second zone of said cylinder whereby rotation of said cylinder transports said secondary material through said second and third zones to said second end of the cylinder (see col. 9 line 53 to col. 11 line 49); isolating said third zone from said hot gas stream (see Fig. 1); mixing said primary aggregate material and said secondary material with liquid asphalt within the third zone isolated from said hot gas stream to produce an asphaltic composition (see col. 9, lines 40-52) and discharging said primary and secondary materials from said second end of said cylinder (see col. 12, line 62-64). Regarding claim 45, a curtain of falling aggregate material is created in the first zone of said cylinder and said hot gas stream flows through the curtain of falling aggregate (see col. 12, lines 5-11). Regarding claim 46, a step of preventing material from forming a curtain of falling material within the second zone is disclosed (see col. 7, lines 47-55). Regarding claim 47, material (255) is shielded from direct radiant heat in the second zone (see Fig. 1). Regarding claim 48, said delivering step comprises delivering virgin aggregate material to the first end of said cylinder (see col. 5, lines 64-67) and said introducing step comprises intruding recycled asphalt material (255) to said second zone.

Allowable Subject Matter

5. Claims 42, 43, 51 and 52 are allowed.

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6. Claims 40, 41, 49 and 50 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.


Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David L. Sorkin whose telephone number is 571-272-1148. The examiner can normally be reached on 9:00 -5:30 Mon.-Fri..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wanda L. Walker can be reached on 571-272-1151. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


David L. Sorkin
Primary Examiner
Art Unit 1723

DLS